

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

SPURGEON M. SMIDT,

Plaintiffs,

v.

Case No. 07-2168-JWL

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

ORDER

Plaintiff Spurgeon M. Smidt brings this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of the decision of defendant, the Commissioner of Social Security, which denied disability benefits and Supplemental Security Income under Titles II and XVI of the Social Security Act. This matter comes before the court on Defendant's Motion to Reverse and Remand and for Entry of Final Judgment (doc. #8). In the memorandum in support of that motion, the Commissioner explains that the Appeals Council has agreed to issue a fully favorable decision awarding plaintiff benefits. The court will grant the motion because plaintiff has not filed a timely opposition to the motion and, additionally, it appears that granting the motion will effectively afford plaintiff all of the relief he seeks in this action.

IT IS THEREFORE ORDERED BY THE COURT that Defendant's Motion to Reverse and Remand and for Entry of Final Judgment (doc. #8) is GRANTED, the

Commissioner's decision is REVERSED, and this case is REMANDED to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for a full award of benefits.

IT IS SO ORDERED this 5th day of December, 2007.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge